

**HIGH COURT OF TRIPURA
AGARTALA
CRL. REV. P NO.37 OF 2023**

Sri Prasenjit Roy

.....**Petitioner(s)**

Versus

The State of Tripura.

.....**Respondent(s)**

For the Petitioner(s) : Mr. R.G. Chakraborty, Advocate.

For the Respondent(s) : Mr. R. Datta, P.P.

Date of hearing and delivery of
Judgment & Order : 08.08.2024.

Whether fit for reporting : NO.

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
J U D G M E N T & O R D E R (O R A L)**

This present petition has been filed under Section-397 read with Section 401 of the Cr.P.C challenging the Order dated 02-05-2022 passed in Case No. Criminal Appeal-02 of 2021 by the learned Additional Sessions Judge, Bishalgarh, Sepahijala Judicial District whereby the learned Court below has dismissed the appeal upholding the conviction of the appellant passed by the Trial Court and sentenced him to suffer R/I for one month for offence under Section 279 of Indian Penal Code, 1860 & to suffer R/I for a period of 06 (six) months under Section 304-A of the Indian Penal Code,

1860. Furthermore, to pay a fine of Rs. 500/- (Rupees five hundred) only under Section-187 of the Motor Vehicles Act 1988 in default to undergo Simple Imprisonment for a period of further 15 (fifteen) days.

2. The brief fact of this case is that on 15.01.2014 at about 20.00 hours, when the victim-Khokon Das, was going by walking by the side of the National Highway towards Madhya Bazar Vivekananda School, near Bishalgarh PS and at that time, the offending motorbike (Pulsar) B/R No. TR-01-R-9900 came at a rash and negligent manner and dashed the victim from the back side due to which he received grievous injuries upon his persons. Local people shifted him to Bishalgarh Sub Divisional Hospital from where he was referred to AGMC & GBP Hospital and there, at about 10 p.m., he succumbed to his injuries.

3. Thereafter, FIR was lodged by the informant Pintu Das, brother of the victim on 15.01.2014, the first investigating officer S.I. Drabajoy Reang and second investigating officer SI Satya Ranjan Nandy of Bishalgarh PS investigated the case, and submitted the charge sheet under Section 279/304 A of IPC and 187 of MV Act against the accused namely Prasenjit Roy i.e. the petitioner herein.

4. The prosecution adduced as many as 10 witnesses. During the trial, after the closing of the Prosecution evidence, the

accused was examined under Section 313 of Cr.P.C., wherein, he denied and disputed the evidence adduced by the prosecution side and declined to adduce defence evidence on his behalf. Finally, the learned Trial Court passed impugned Judgment and Order of conviction and sentence against the petitioner after hearing the argument of both sides.

5. Against the said sentence, the accused-petitioner herein preferred Criminal Appeal No.02 of 2021 before the learned Appellate Court. After hearing, the learned Appellate Court below dismissed the appeal of the petitioner and upheld the conviction followed by the sentence as mentioned here-in-above. Hence this present revision petition before this Court.

6. Heard Mr.R.G. Chakraborty, learned counsel appearing for the petitioner as well as Mr. R. Datta, learned P.P. appearing for the State-respondent.

7. Mr. R.G. Chakraborty, learned counsel appearing for the petitioner submits that apart from the police witnesses, the rest of the prosecution witnesses are related and interested witnesses to the victim deceased, so, their version of the story cannot be trusted. As such, the learned lower Appellate Court has wrongly appreciated the evidence and findings of the learned Trial Court while upholding the conviction of the petitioner herein.

8. On the other hand, learned P.P., relied upon the witness of P.W.-2, P.W.-3, P.W.4, and P.W.-7 who were the eyewitnesses of the incident. Learned P.P., further relied upon post-mortem examination report wherein it is stated that, "*the cause of death was head injury by impact of some hard and blunt object and findings are consistent with the history.*"

Stating thus, learned P.P., urged this Court to dismiss this appeal.

9. Heard and perused the evidence on record.

10. This Court is aware of the fact that there are several eyewitnesses to the incident i.e. P.W.-2, P.W.-3, and P.W.4 who are related witnesses to the victim-deceased and P.W.-7 who was the owner of the shop in the place of the incident. This Court is also aware of the comment given in the post mortem examination report. But this Court has to also consider the fact that at the time of the incident, the accused-petitioner was only 19 years of age and the petitioner before the Court below submitted that out of ignorance he had committed such a crime and this is his first offence. So, considering the balanced approach to justice, the sentence imposed by the Court below under Section 304-A of IPC for 6(six) months with fine of Rs.500/- to the petitioner herein is reduced to simple imprisonment for 1(one) month and a fine of Rs.50,000/- to be paid by the petitioner herein to the family of the

deceased in 30(thirty) days from today failing which he shall undergo further imprisonment of 2(two) months. Apart from this observation, all other aspects of the Judgment and conviction as passed by the Court below shall remain unaltered.

11. In view of the above, this present petition is allowed to the extent indicated above. As a sequel, stay if any stands vacated. Pending application(s), if any also stands closed.

Send down the LCRs.



JUDGE

सत्यमेव जयते

suhanjit

RAJKUMAR
SUHANJIT
SINGHA

Digitally signed by
RAJKUMAR
SUHANJIT SINGHA
Date: 2024.08.12
12:00:17 +05'30'